

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NANCY RENEE PLATT,

Plaintiff,

v.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,

Defendant.

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Case No. 2:17-cv-0321-JRG-RSP

MEMORANDUM ORDER

Currently before the Court is Plaintiff's Motion for Attorney's Fees Pursuant to the Equal Access to Justice Act (Dkt. No. 16), filed by Petitioner on September 24, 2018. The motion seeks compensation for 23.9 hours at the adjusted statutory rate of \$195.12 per hour for a total of \$4,663.37, together with \$400 in costs. The Commissioner does not oppose the requested award of fees and costs. (Dkt. No. 17).

The Equal Access to Justice Act (EAJA), 28 U.S.C. §2412, allows a prevailing party in litigation against the United States, including a petitioner for Social Security benefits, to recover his attorney's fees "unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." *Id.* at §2412 (d)(1)(a). The Supreme Court has explained that "EAJA fees are determined not by a percent of the amount recovered, but by the 'time expended' and the attorney's 'hourly rate,'" which is currently capped at \$196 per hour. *Gisbrecht v. Barnhart*, 535 U.S. 789, 794, 122 S.Ct. 1817, 152 L.Ed.2d 996 (2002). *See generally, Murkeldove v. Astrue*, 635 F.3d 784, 789 (5th Cir. 2011). The Commissioner does not contend, nor does the Court find, that the position of the government was substantially justified or

that any special circumstances exist rendering an award unjust. The Court finds that Petitioner's requested fee is appropriate.

Accordingly, IT IS ORDERED that Defendant will pay Petitioner \$4,663.37 in EAJA fees, together with \$400 in costs. In accordance with the Supreme Court's decision in *Astrue v. Ratliff*, 130 S.Ct. 2521 (2010), this award will be payable to Petitioner, by delivery to her counsel of record.

SIGNED this 13th day of May, 2019.


ROY S. PAYNE
UNITED STATES MAGISTRATE JUDGE